8 October 2019

Ministry for Primary Industries
Land and Water policy team
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Attention: Land and Water policy team

Submission National Policy Statement for Highly Productive Land

This submission is made by Spark New Zealand Trading Limited (Spark).

1. Summary

1.1. Spark supports the development of expansion of the national direction tools, such as the proposed National Policy Statement for Highly Productive Land (NPS-HPL), proposed National Policy Statement for Urban Development (NPS-UD), and amendments to the National Policy Statement for Freshwater Management and a new National Environmental Standard for Freshwater Management (NPS-FM and NES-FM).

1.2. Sparks generally supports that proposed objectives and policies that include decision-making guidance to councils on plan change and resource consent applications, specifically those that rezone highly productive land or propose urban development on highly productive land. Intensification of urban development via the NPS-UD enables by the more efficient delivery of digital technology. Spark supports the:

- Avoidance of subdivision and fragmentation that compromises highly productive land use for primary production;

- Avoidance of uncoordinated urban expansion on highly productive land not subject to a strategic planning process; and

- Avoidance and mitigation of reverse sensitivity effects from incompatible activities adjacent to highly productive land.

However, we are concerned that while "avoidance" language is used there is still reasonable potential for urban expansion on to highly productive land in the 6 major urban growth areas under the NPSUD.

1.4 The focus Sparks its submission in relation to how the NPS-HPL may impact on the delivery of digital services under the existing Resource Management regulatory mechanisms such the National Environmental Standard for Telecommunication Facilities 2016 (NESTF) and Regional and District Plans. We request that the telecommunication facilities be exempt from any restrictions on the use of highly productive land that could arise from the NPS-HPL.

1.5 Alternatively, Spark submits that Proposed policy 1, identification of highly productive land, should be amended as ==highlighted in yellow== to make it clear that infrastructure includes telecommunications and electricity under the criteria to identify highly productive land:

> *"When identifying areas of highly productive land, local authorities may also consider the following factors:*
> a. *[the current or potential availability of water – see question below];*
> b. *access to transport routes;*
> c. *access to appropriate labour markets;*
> d. *supporting rural processing facilities and infrastructure ==including telecommunications and electricity==;*
> e. *the current land cover and use and the environmental, economic, social, and cultural benefits it provides; and*
> f. *water quality issues or constraints that may limit the use of the land for primary production.*

1.6 Spark considers that both the NPS-HPL and NPS-UD require further research, redrafting and another round of submissions to ensure these proposed national policies are clear as to:

1.6.1 Hierarchy and Priority if one of the NPS documents is meant to be able to overrule another. In the ideal national direction toolbox that the NPS's should be able to be read together and with clarity for implementation by regional and local government;

1.6.2 Mechanisms for resolving conflicts;

1.6.3 Stating clearly the outcomes required via the objectives and policies. For example, if highly productive land is to be avoided by urban development then both NPS-HPL and NPS-UD need to be clear that highly productive is

required to be protected and that it would in the exception that urban expansion would be promoted and permitted.

2. Introduction to Spark New Zealand Trading Limited

2.1.   Spark is New Zealand's largest digital services company delivering mobile, fixed and IT products and services to millions of New Zealand customers and businesses. Our vision for New Zealand is 'to help all of New Zealand win big in a digital world'.

2.2.   Spark is a multi-brand business, with principal brands Spark (supporting home, consumer mobile and small business customers) and Spark Digital (supporting government and business customers with strong Cloud services, mobility and Information and Communication Technologies ("ICT") capabilities). Specialist and flanking brands include Skinny (consumer mobile and broadband), Revera and Computer Concepts Limited (data hosting services), Digital Island (business telecommunications), Lightbox (internet TV), Qrious (data analytics), and Bigpipe (consumer broadband).

2.3.   Fully privatised since 1990, Spark is listed on the NZX and ASX stock exchanges. Spark contributes significantly to its communities through our community initiatives which are targeted around education. Spark uses digital technology to power a more generous society through Givealittle, New Zealand's premier crowdfunding platform for social good. Administered by the Spark Foundation, Spark Jump offers heavily subsidised broadband to families with school-aged children who cannot afford commercial broadband. Spark also supports a range of other education-focused initiatives by partnering with national not-for-profit organisations.

2.4.   The New Zealand mobile market is growing. Success in wireless-based products and services is underpinned by our investment in our mobile network. Spark have now rolled out 4.5G, bringing customers faster speeds and giving the network more capacity. Spark are also replacing the ageing Public Switched Telephone Network with our new Converged Communications Network. This will enable richer and better customer experiences with voice, video, and collaboration features over whatever Spark service is available at the moment customers want to use it.

2.5. Spark continues to provide a paging service network for emergency services such as New Zealand Fire Service. In particular, volunteer fire officers in rural areas and health boards and customers for whom paging is also business critical. The network is being upgraded and expanded for coverage.

2.6. Spark is expanding the access to broadband services through Skinny Broadband, a prepaid service, as well as Wireless Broadband.

2.7. As part of this, Spark launched the broadband plan that flexes with the amount of data customers consume. Broadband customers do not always use the same amount of data each month so 'Unplan' gives customers the freedom to use more data when needed, and savings when they use less data. There is also a choice to include entertainment on your broadband plan, with the option of Unplan Entertainment.

2.8. In addition, Spark launched SPACETALK in November, a kids' all-in-one smartphone, watch and GPS device. The kids' watch is designed for children aged 5-12 years who are becoming more independent but are not yet ready for a full functioning, expensive smartphone. The watch is equipped with a wide range of practical features including the ability to stay connected throughout the day via text messages, voice messages, calls and interactive emojis.

2.9. All these wireless broadband services deliver a fast and reliable internet connection using 4G mobile technology instead of a connection using the traditional copper line ADSL network.

2.10. Spark Sport was launched in mid-March 2019 as a digital broadband platform to stream sports broadcasting content via the Spark mobile network to mobile devices, computers, Chromecasts and smart TV's via an online platform. Spark has secured the rights to many sports events, notably the Rugby World Cup 2019, English Premier League football, World Rally Championship and NBA league among others. In the first few months of service, Spark Sport has already successfully streamed hundreds of hours of live and on demand content, including several Formula 1 Grand Prix, World Rally Championship rounds, NBA games and FIH Pro League hockey matches.

2.11. Spark has led the race to deploy the next generation mobile network 5G technology in New Zealand. The deployment of 5G will be crucial for Spark's future growth and

is a big driver of innovation. The deployment of 5G will be crucial for Spark's future growth and is a big driver of innovation. Spark has launched its our 5G network. The expansion the 5G network deployment further is contingent on Spark securing additional 5G spectrum, with the frequencies known as C-Band and mm-Wave the most referenced bands globally when it comes to 5G. Spark understand it is the Government's intention to auction 5G spectrum in early 2020.

2.12. Spark and Emirates Team New Zealand opened New Zealand's first interactive 5G test lab in November 2018. The Spark 5G Lab has a dual purpose. It's primarily designed to be a collaboration space for New Zealand innovators, entrepreneurs and companies like Emirates Team New Zealand to have early access to 5G, so they can test and develop products and experiences that will define the future. The lab will also host technologies that showcase some of the possibilities and benefits of 5G such as robotics, virtual reality, facial recognition, Internet of Things ("IoT"), smart cities, emergency services drones and driverless cars. Spark is providing Emirates Team New Zealand with telecommunications and digital connectivity, both on and off the water, as well as exclusive rights to provide telecommunications services and connectivity within areas controlled by the organising company, America's Cup Event Limited.

2.13. Spark has also rolled out two low-power networks with one of these now covering more than 65% of the population. Our IoT capability is already enabling a range of use cases, such as metering, smart lighting and environmental monitoring, connected vehicles and trackers on industrial vehicles to monitor the location of packages and condition of vehicles. Spark are also supporting test-use cases for IoT sensors in agribusiness to better manage farms, orchards and other agricultural use cases such as beehives.

3. Telecommunications industry

3.1. Worldwide, as technology develops, there has been a significant upward trend in the amount of mobile data consumed in New Zealand as shown in figure 5 from the Commence Commission report 26 September 2019.

3.2.   Technologies such as enhanced streaming services, for example 4k and 8k ultra high definition streaming, become available and commonplace, the bandwidth required for these services is greatly increased.   This has and is occurring in a relatively short space of time (2010 – present).   In certain markets internet streaming is replacing terrestrial or satellite television as the medium of choice. Consumers' demand for these services dictates what is expected of telecommunications providers and often seen as a 'minimum' requirement to be able to stream applications such as Netflix, Instagram, Facebook style in the 'Mobile Digital era'.

Figure 5: Mobile data consumption
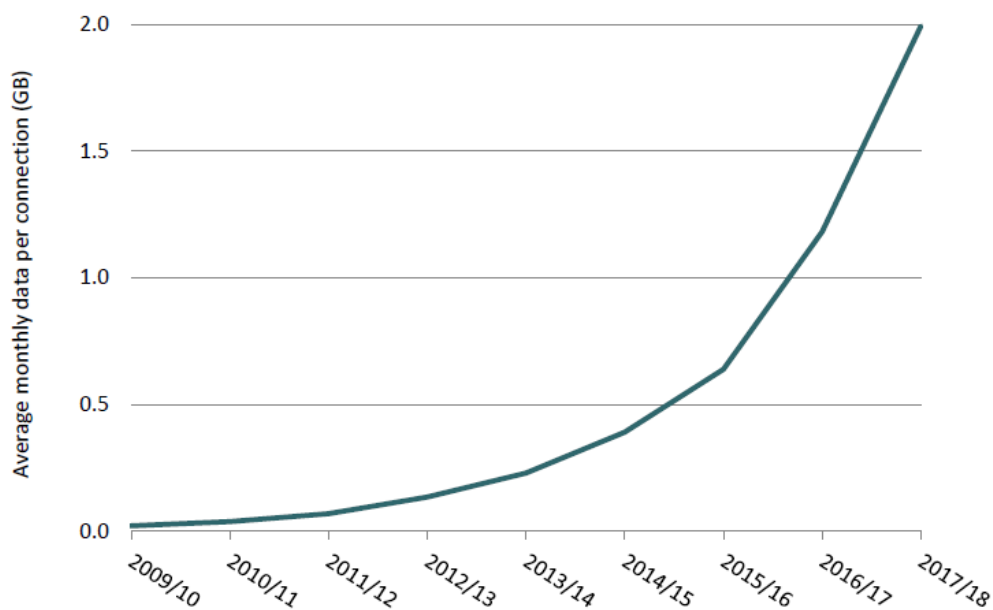
The amount of data consumed over mobile networks (excluding WiFi) by retail customers also continued to grow strongly in 2018, as shown in Figure 5. The average amount of mobile data consumed per connection is now 2GB per month. The CAGR for mobile data over the time we have been measuring it (since 2010) is 77%.

3.3.   Providing high quality connectivity and services to homes and businesses throughout New Zealand can be challenging.   Rapid advances in technology are driving transformational changes as our products and services become increasingly important in the daily lives and businesses of New Zealanders.   These advances have seen the

telecommunications industry collectively investing $1.6 billion each year on average to deliver new services and network technology to New Zealanders. At the same time, fierce competition is delivering more value to consumers at lower prices, meaning New Zealand is now in the enviable position of having world-class networks and services, at below OECD average prices, for both fixed and mobile communications.

3.4. In mobile wireless services, Spark, Vodafone and 2degrees are the three major mobile network operators who each compete for customers over their own network of cell towers, utilising radio spectrum licensed from the Government. Additionally, Spark, Vodafone and 2degrees have formed the Rural Connectivity Group to share a wireless network that will provide wireless coverage under a programme to extend mobile and wireless broadband coverage to remote areas of rural New Zealand as part of the Government's Rural Broadband Initiative.

3.5. When it comes to fixed services provided over fibre or copper lines, the industry structure is quite different. The local line networks (sometimes referred to as the "last mile") are owned by wholesale companies which must be separate from the retailers like Spark, Vodafone or 2degrees that provide services to customers. It is a bit like the network companies own and maintain the train tracks, while Spark runs our trains over these tracks.

3.6. Chorus owns the national copper line network, while the fibre network being built in cities and larger towns under the Government-sponsored ultra-fast broadband programme is owned by four different companies, each with a monopoly in their region:

    3.6.1. Ultrafast Fibre is responsible for Hamilton and other towns in Waikato, Taranaki, and Whanganui;

    3.6.2. Enable is in Christchurch and parts of Canterbury;

    3.6.3. North Power is in Whangarei; and

    3.6.4. Chorus is in the rest of the country including Queenstown, Auckland, Wellington and Dunedin.

3.7. Telecommunications is a regulated industry sector in New Zealand, with the Commerce Commission overseeing the industry. As part of this regulation,

telecommunications companies are required to pay an annual Telecommunications Development Levy, which is used to improve New Zealand's telecommunications infrastructure (especially in rural areas which are economically challenging to service). The current levy is $50 million annually.

3.8. Spark, along with other telecommunication providers, invest significantly every year in our networks to ensure residents and visitors to Queenstown Lakes District, and nationally to all New Zealanders, have access to world class digital services.

3.9. To enable this, we rely on regulatory frameworks both nationally, via the NESTF, and locally, via the relevant district or unitary plans to appropriately enable the upgrading of existing networks and construction of new networks.

3.10. Our network requirements are constantly changing and evolving unlike any other infrastructure sector, as reflected in the fact the new 5G networks have started to be rolled ahead of the government spectrum auctions in 2020. It should be noted that at the same time we are completing the 4G network in other parts of the country. New Zealanders and businesses completely depend on access to these networks.

4. **Spark Submission points National Policy Statement for Highly Productive Land**

4.1. Spark supports the development of expansion of the national direction tools, such as the proposed National Policy Statement for Highly Productive Land (NPS-HPL), proposed National Policy Statement for Urban Development (NPS-UD), and amendments to the National Policy Statement for Freshwater Management and a new National Environmental Standard for Freshwater Management (NPS-FM and NES-FM).

4.2. The focus Sparks its submission in relation to how the NPS-HPL may impact on the delivery of digital services under the existing Resource Management regulatory mechanisms such the National Environmental Standard for Telecommunication Facilities 2016 (NESTF) and Regional and District Plans. We request that the telecommunication facilities be exempt from any restrictions on the use of highly productive land that could arise from the NPS-HPL.

4.3. The telecommunications industry relies on a combination of RMA tools to ensure that our physical networks can be expanded with new sites and existing sites upgraded for delivering additional capacity and/or new technology. The NESTF provides nationally the opportunity to construct new sites on rural and rural residential zoned land. There is no current restriction on placing a telecommunications facility on land that would be classified under the NPS-HPL as highly productivity. Our sites are critical to providing technology for rural production including monitoring and management of water, soil moisture or animal health/welfare. These sites are often located on rural zoned land to service near of small urban centres. On the Canterbury plains or the Hawkes Bay the majority land would be classified highly productive. It is not uncommon for a new rural site to be higher than the 25m permitted standard under the NESTF. Consequently, a resource consent for a height infringement is under the NESTF is likely to be a discretionary activity. Potentially if the proposed site was on highly productive land the NPS-HPL the "avoid" objective has the potential to make it difficult for a consenting authority. We are concerned that when the NESTF is reviewed there is potential for the introduction of NESTF standard under clause 5 that restricts the establishment of facility on land classified highly productive. Spark submits that the telecommunication facilities should be exempt from any restrictions on the use of highly productive land that could arise from the NPS-HPL for the following reasons:

4.3.1. Critical nature and importance of telecommunication facilities to deliver technology for the rural sector and support initiatives related to natural hazards, lifelines emergency event responses/management, climate change and freshwater management;

4.3.2. The area of land that a facility occupies is very small;

4.3.3. Land for the facility is generally leased. The landowner has reasonable control over the placement of the facility. The landowner is unlikely to agree to a location that impacts on the production of their land.

4.3.4. Leases ran for a specific term and can be terminated by the landowner if the land was required for production;

4.3.5. When that facility is removed production can continue.

4.4. Spark submits that Proposed policy 1 identification of highly productive land is amended as highlighted in yellow below to make it clear that infrastructure includes

telecommunications and electricity under the criteria to identify highly productive land:

> *"When identifying areas of highly productive land, local authorities may also consider the following factors:*
> *g.   [the current or potential availability of water – see question below];*
> *h.   access to transport routes;*
> *i.   access to appropriate labour markets;*
> *j.   supporting rural processing facilities and infrastructure ==including telecommunications and electricity==;*
> *k.   the current land cover and use and the environmental, economic, social, and cultural benefits it provides; and*
> *l.   water quality issues or constraints that may limit the use of the land for primary production.*

4.5   Spark is concerned that there appears to be potential conflicts, clearly unintended, between NPS-HPL and NPS-UD. An example of this is NPS-HPL Objective 3 seeking to protect highly productive land from inappropriate subdivision, use and development by "avoiding" uncoordinated urban expansion on highly productive land that has not been subject to a strategic planning process i.e. under the NPSUD. Consequently, in the major urban growth areas the outcome could still be that the highly productive land as recognised and protected under objectives 1 & 2 of NPS-HPL will be lost if a strategic planning process determines that urban development has priority. The relationship between the NPS-HPL and NPS-UD will be important in high growth areas such as Auckland and Tauranga. Also, maybe in parts of Queenstown Lakes/Central Otago where orchards and vineyards appear to be put under pressure to move because of expanding urban development. Collaborative strategic planning processes as identified in the NPS-UD including spatial planning, development capacity assessments including "other" infrastructure i.e. telecommunications and electricity.

Table 2: Proposed wording for NPS

Objective 1: Recognising the benefits of highly productive land
To recognise and provide for the value and long-term benefits of using highly productive land for primary production.

Objective 2: Maintaining the availability of highly productive land
To maintain the availability of highly productive land for primary production for future generations.

Objective 3: Protecting from inappropriate subdivision, use and development
To protect highly productive land from inappropriate subdivision, use and development, including by:
- avoiding subdivision and land fragmentation that compromises the use of highly productive land for primary production;
- avoiding uncoordinated urban expansion on highly productive land that has not been subject to a strategic planning process; and
- avoiding and mitigating reverse sensitivity effects from sensitive and incompatible activities within and adjacent to highly productive land.

4.6   It is our opinion that both the NPS-HPL and NPS-UD require review, redrafting and another round of submissions to ensure these national policies are clear as to:

4.7.1   Hierarchy and Priority if one of the NPS documents is meant to be able to overrule another. In the ideal national direction toolbox that the NPS's should be able to be read together and with clarity for implementation by regional and local government

4.7.2   Mechanisms for resolving conflicts

4.7.3   Stating clearly the outcomes required via the objectives and policies. For example, if highly productive land is to be avoided by urban development then both NPS-HPL and NPS-UD need to be clear that highly productive is required to be protected and that it would in the exception that urban expansion would be promoted and permitted.

4.8   The NPS-HPL requires regional councils to identify the highly productive land in the region based on a range of factors, including the Land Use Capability classification, access to transport and water quality constraints. Spark submits that it would be potentially useful that this process is to be carried out collaboratively with the key stakeholders especially infrastructure organisations, district councils given their understanding of local matters/issues, strategic initiatives including spatial planning for their respective districts.

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Contact Details

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Yours sincerely,

Graeme McCarrison

Engagement and Planning Manager